IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8752 of 1998

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RUMSADBI SHAIKH BAZIR - Petitioner(s)
Versus
SURAT MUNICIPAL CORPORATION & 1 - Respondent(s)

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Appearance :
MR SUNIL C PATEL for Petitioner(s) : 1,
MR PRASHANT G DESAI for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 10/10/2007

ORAL JUDGMENT

This petition under Article 226 of the Constitution of India has been preferred by one Rumsadbi Shaikh Bazir against the respondent Surat

Municipal Corporation [hereinafter referred to as 'the Corporation'].

2. The petitioner has claimed that he is running his business outside the Surat Railway Station from the public place designated as 'hawking zone'. According to the petitioner under the scheme approved by the Hon'ble Supreme Court the place in question is designated as 'hawking zone'. Certain people are allowed to conduct their business from the said hawking zone. The petitioner is one of such persons. He has been stationed at the place for several years. He apprehends that the Corporation will forcibly evict the petitioner from the said place. He has, therefore, preferred the present petition and has prayed for a direction restraining the Corporation from removing the petitioner or disturbing his possession of the public place in question in any manner.

3. Mr. Desai has contested the petition. He has submitted that the place in question is not a hawking zone as it is averred. It is a public land outside Surat Railway Station. The Corporation needs

the said land for road widening and for providing infrastructure for public transport service.

4. The need for expansion of the roads and public services over a passage of time cannot be questioned. In any view of the matter the petitioner has no right to conduct his business from a public place. The petition is, therefore, dismissed. Interim relief is vacated.

5. Learned advocate Mr. Patel requests that as the petitioner will be required to make alternative arrangement, time be granted upto 31st December 2007 to vacate the place in question and till then the Corporation may not forcibly evict the petitioner.

6. The request is accepted on condition that the petitioner, within 15 days from today, gives an undertaking to this Court to hand over possession of or to vacate the public place in his possession by 31st December 2007. Copy of the undertaking be given to the learned advocate Mr. Desai.

7. It is directed that the petitioner shall, on

or before 31st December, 2007, vacate the public place in his occupation. In the event the petitioner fails to vacate the public place as aforesaid or to voluntarily hand over the possession of the public place to the Corporation as directed, the Corporation shall be at liberty to forcibly vacate the petitioner without notice. In that case the Corporation will be entitled to recover from the petitioner the cost of forcible eviction incurred by it. On and from 1st January, 2008 the petitioner will be liable to pay occupancy fees of Rs. 50 per day to the Corporation till he hands over possession of the place in question to the Corporation or till he is evicted by the act of the Corporation.

8. Subject to the above direction Rule is discharged. The parties will bear their own cost.

[Ms.R.M. Doshit,J.]

rmr.